



# **PLANNING COMMISSION AGENDA REPORT**

**VII. 3**

MEETING DATE: MARCH 26, 2007

ITEM NUMBER:

SUBJECT: PLANNING APPLICATION PA-07-04  
679 WEST 18<sup>TH</sup> STREET

DATE: MARCH 15, 2007

FOR FURTHER INFORMATION CONTACT: WENDY SHIH, ASSOCIATE PLANNER (714)754.5136

---

## **DESCRIPTION**

The applicant proposes to convert 4 apartment units into a common interest development (condominiums) with a variance from private open space requirements.

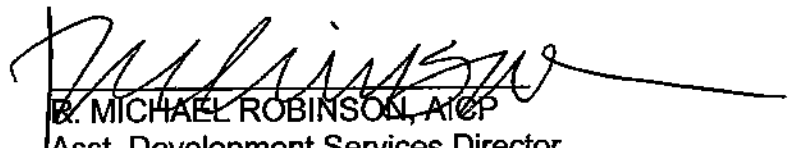
## **APPLICANT**

Barry Saywitz of Barry Saywitz Properties One is the property owner and project applicant.

## **RECOMMENDATION**

Approve by adoption of Planning Commission resolution, subject to conditions.

  
WENDY SHIH  
Associate Planner

  
B. MICHAEL ROBINSON, AICP  
Asst. Development Services Director

## PLANNING APPLICATION SUMMARY

Location: 679 W. 18<sup>th</sup> Street Application: PA-07-04

Request: To convert 4 apartment units into a common interest development (condominiums) with a variance from private open space requirements.

Zone: <u>R3</u>	North: <u>R2-HD Apartments</u>
General Plan: <u>High Density Residential</u>	South: <u>R3 Apartments</u>
Lot Dimensions: <u>60 ft. x 135.09 ft.</u>	East: <u>R2-HD Apartments</u>
Lot Area: <u>8,105 sq.ft.</u>	West: <u>R3 Apartments</u>
Existing Development: <u>4-unit apartment complex with a 4-car garage.</u>	

## DEVELOPMENT STANDARD COMPARISON

<u>Development Standard</u>	<u>Code Requirement</u>	<u>Proposed/Provided</u>
-----------------------------	-------------------------	--------------------------

Lot size:		
Lot width	100 ft.	60 ft. <sup>1</sup>
Lot area	12,000 sq.ft.	8,105 sq.ft. <sup>1</sup>
Density: Zone/GP	1 du/ 2,178 sq.ft.	1 du/ 2,026 sq.ft. <sup>1</sup>
Building coverage – overall project:		
Buildings	NA	32% (2,599 sq.ft.)
Paving	NA	30% (2,393 sq.ft.)
Open Space	40% (3,242 sq.ft.)	38% (3,113 sq.ft.) <sup>1</sup>
TOTAL	100%	100%
Min. private open space dimension	10 ft. by 10 ft. minimum dimension	Minimum dimensions of 5 ft.-10 in. for unit C and 8 ft. – 6 in. for unit D <sup>2</sup>
Building Height:	2-stories/27 ft.	2-stories/21 ft.
Setbacks:		
Front	20 ft.	20 ft.
Side (left/right)	5 ft./5 ft.	5 ft./22 ft.
Rear (1 <sup>st</sup> floor/2 <sup>nd</sup> floor)	10 ft./20 ft.	7 ft./7 ft. <sup>1</sup>
Parking:		
Covered	4	4
Open	7	3
Guest	2	0
TOTAL	13	7 <sup>1</sup>
Driveway Width:	16 ft.	12 ft. <sup>1</sup>

CEQA Status	<u>Exempt, Class 1</u>
Final Action	<u>Planning Commission</u>

- 1 Existing, nonconforming.  
2 Variance requested.

## **BACKGROUND**

The subject property contains a two-story, 4-unit apartment complex with a 4-car garage. The complex consists of one 3-bedroom unit and three 2-bedroom units and was approved in 1976 under Zone Exception Permit ZE-76-85. The property owner proposes to convert the apartments into condominiums.

Pursuant to Code Section 13-42(g), Planning Commission review is required when occupied apartments are proposed to be converted to a common interest development. The review is required to confirm compliance with applicable development standards and to consider potential impacts on the rental housing supply and displacement of tenants if the City's vacancy rate is below 3%. A variance is also requested because the two second-floor balconies do not meet minimum private open space standards.

A parcel map will be required to be approved and recorded before the units can be sold independent of one another. The applicant is aware of this requirement but did not want to incur the cost of having the map prepared until Planning Commission acted on the conversion.

## **ANALYSIS**

### **Common Interest Development Conversion**

Common interest developments must comply with additional development standards above those applicable to apartments. These additional development standards include provision of a minimum 10-foot by 10-foot private open space area for each unit, having a break in the front plane of the building of at least 4 feet every 2 dwelling units, and provision of on-site lighting. The existing development already complies with the common interest development requirements with respect to breaks in the elevations and on-site lighting. The applicant is requesting a variance (see discussion below) from private open space requirements since the existing second floor balconies do not meet the required 10-foot minimum dimension (5 feet 10 inches and 8 feet 6 inches minimum dimensions provided).

The existing development is situated on a lot with nonconforming lot width and area. The apartment building was constructed in 1977 and is legal, nonconforming because the project was permitted and constructed under previous requirements and does not satisfy current Zoning Code requirements for density, open space, rear building setback, parking, and driveway width – whether as apartments or condominiums. The proposed change in the type of ownership will not increase the project's degree of nonconformity.

The Zoning Code establishes a "critical vacancy rate" of 3% as the threshold for discouraging conversion of apartments to common interest developments, the idea being that conversions could diminish the supply of rental housing and displace long-term residents unreasonably, particularly senior citizens, low- and moderate-income families, and families with school-age children. When the citywide rental vacancy rate

is 3% or less, Planning Commission may deny any requested conversions. The 2000 census data indicates the City's rental vacancy rate is 2.8%.

The tenants are currently paying \$1,995 a month for the 3-bedroom unit and \$1,495 and \$1,525 a month for the 2-bedroom units. The current affordable rental rates are as follows:

	Very-Low Income	Low-Income	Moderate Income
3-Bedroom Units	\$979 a month	\$1,175 a month	\$1,860 a month
2-Bedroom Units	\$881 a month	\$1,057 a month	\$1,300 a month

Affordable Rental Rate Based Upon Fair Market Rent Established by US Dept. of Housing and Urban Development (HUD) for 2006 and 2007.

Based on this information, the monthly rents for the units exceed the affordable rental rates for very-low, low, and moderate income households. Therefore, the conversion of the units would not result in a loss of affordable rental units. Conversion of the units would not result in the displacement of seniors or school-age children because there are none residing on the property. To ensure that existing tenants are not displaced unreasonably, the owner will be required to offer right of first refusal to the tenants, with terms more favorable than those offered to the general public. As conditioned, if the tenants confirm that they are not interested in purchasing the units, the property owner will be required to register the tenants with an apartment referral service acceptable to both parties, with registration fees (if any) paid by the property owner.

It is staff's opinion that conversion of the apartments into condominiums will not substantially diminish the supply of rental housing and displace residents unreasonably since 60% of the City's housing units are renter occupied and General Plan Goal LU-1A.4 seeks to "improve the balance between rental and ownership housing opportunities".

As required by Code, a property inspection report as well as a termite report was submitted, and a City property inspection report was prepared. Based on those reports, Planning staff's inspection of the site, and to allow a general upgrading of the site, staff recommends the following improvements:

1. Complete all exterior and interior improvements listed in the letter provided by Stern Architects dated February 19, 2007. All requirements are to be completed under the direction of the Planning staff.
2. Treat termite infestations as recommended by a termite control company.
3. Building, plumbing, mechanical, and electrical corrections or upgrades as noted in the City property inspection report (also listed in the recommended conditions of approval in Exhibit "B").
4. Other site improvements as outlined in the recommended conditions of approval in Exhibit "B".

**Variance**

It is staff's opinion that special circumstances applicable to the property exist to justify approval of the private open space variance. Although the two existing second floor balconies do not have the minimum 10-foot dimension required by Code, one of the balconies will exceed the 100 square feet of area that would result in the provision of the minimum dimension required (142 square feet provided). The other unit has an existing 70 square-foot balcony. However, the project has an approximately 600 square-foot open space area at the rear of the lot for the common use of residents. The two ground floor units each have private patio areas with a minimum 12-foot dimension and are at least 250 square feet. Additional usable front and rear yard areas are also available for their use.

It is staff's opinion that approval of the variance would not negatively impact surrounding properties or constitute a grant of special privileges inconsistent with the limitation upon other residential properties in the vicinity.

**Additional Discussion**

The subject site is located within the Mesa West Residential Ownership Urban Plan area, which is an overlay zone that emphasizes improvements by encouraging the redevelopment or conversion of existing rental multiple family units to ownership units. In this plan area, the percentage of renter versus owner-occupied units is greater than the citywide ratio. According to the 2000 census data, approximately 81% of the units are renter occupied. The proposal does not activate the Mesa West Residential Urban Plan regulations. However, it is consistent with the intent of the plan because it is a condominium conversion project which would promote home ownership and provide a visual enhancement to the area.

**GENERAL PLAN CONFORMITY**

Approval of the conversion will satisfy General Plan Goal LU-1A.4 that encourages additional home ownership opportunities in the City. The proposed conversion meets the General Plan's Land Use and Housing Element goals and objectives for additional ownership housing and will improve the balance between rental and ownership housing opportunities within the City. The units, whether utilized as apartments or condominiums, are consistent with the High Density General Plan land use designation because they are existing legal nonconforming.

**ALTERNATIVES**

The units could continue to be rented, without the proposed upgrades, if the request is denied.

## **ENVIRONMENTAL DETERMINATION**

The project is exempt from the provisions of the California Environmental Quality Act under Section 15301 for Existing Facilities.

## **CONCLUSION**

Conversion of the units will not result in a loss of affordable rental units for the very-low, low- or moderate-income households. The conversion will ensure substantial upgrades to the property and provide additional home ownership opportunities, helping to balance the ratio of rental to ownership housing within the City. The variance from private open space dimensions can be supported based on the amount of open space area available for the common use of the residents.

Attachments:        Draft Planning Commission Resolution  
                         Exhibit "A" - Draft Findings  
                         Exhibit "B" - Draft Conditions of Approval  
                         Applicant's Project Description and Property Report  
                         Inspection Reports  
                         Location Map  
                         Plans

cc:     Deputy City Manager - Dev. Svs. Director  
         Sr. Deputy City Attorney  
         City Engineer  
         Fire Protection Analyst  
         Staff (4)  
         File (2)

Barry Saywitz  
4740 Von Karman Ave., Ste. 100  
Newport Beach, CA 92660

Occupant  
679 W. 18<sup>th</sup> St., Unit A  
Costa Mesa, CA 92627

Occupant  
679 W. 18<sup>th</sup> St., Unit B  
Costa Mesa, CA 92627

Occupant  
679 W. 18<sup>th</sup> St., Unit C  
Costa Mesa, CA 92627

Occupant  
679 W. 18<sup>th</sup> St., Unit D  
Costa Mesa, CA 92627

File: 033607PA0704

Date: 03/15/07

Time: 1:45 p.m.

**RESOLUTION NO. PC-07-**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE  
CITY OF COSTA MESA APPROVING PLANNING  
APPLICATION PA-07-04**

THE PLANNING COMMISSION OF THE CITY OF COSTA MESA HEREBY  
RESOLVES AS FOLLOWS:

WHEREAS, an application was filed by Barry Saywitz of Barry Saywitz Properties One, property owner with respect to the real property located at 679 West 18<sup>th</sup> Street, Units A through D, requesting approval of the conversion of 4 apartment units into a common interest development (condominiums) with a variance from private open space requirements, in the R3 zone; and

WHEREAS, a duly noticed public hearing was held by the Planning Commission on March 26, 2007.

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit "A", and subject to the conditions contained in Exhibit "B", the Planning Commission hereby **APPROVES** Planning Application PA-07-04 with respect to the property described above.

BE IT FURTHER RESOLVED that the Costa Mesa Planning Commission does hereby find and determine that adoption of this Resolution is expressly predicated upon the activity as described in the Staff Report for Planning Application PA-07-04 and upon applicant's compliance with each and all of the conditions contained in Exhibit "B". Any approval granted by this resolution shall be subject to review, modification or revocation if there is a material change that occurs in the operation, or if the applicant fails to comply with any of the conditions of approval.

**PASSED AND ADOPTED this 26<sup>th</sup> day of March, 2007.**

---

Donn Hall, Chair  
Costa Mesa Planning Commission



STATE OF CALIFORNIA   )  
  )ss  
COUNTY OF ORANGE    )

I, R. Michael Robinson, secretary to the Planning Commission of the City of Costa Mesa, do hereby certify that the foregoing Resolution was passed and adopted at a meeting of the City of Costa Mesa Planning Commission held on March 26, 2007, by the following votes:

AYES:       COMMISSIONERS

NOES:       COMMISSIONERS

ABSENT:     COMMISSIONERS

ABSTAIN:    COMMISSIONERS

\_\_\_\_\_  
Secretary, Costa Mesa  
Planning Commission

**EXHIBIT "A"****FINDINGS**

- A. The information presented substantially complies with Costa Mesa Municipal Code Section 13-29(10) in that, although the critical vacancy rate is less than the rate established in Section 13-42(c) (Residential Common Interest Development Conversions), the condominium conversion will not result in the loss of affordable units or displacement of senior citizens or school age children. Conversion of the apartments will provide additional home ownership opportunities and improve the ratio of rental to ownership housing within the City. To ensure that existing tenants are not displaced unreasonably, a condition is included to require that current tenants be offered right of first refusal to purchase, or the property owner pay registration fees for an apartment search service mutually acceptable to both parties to help them find a new apartment if they decide not to purchase.
  
- B. The information presented substantially complies with Costa Mesa Municipal Code Section 13-29(e) in that:
  - a. The project is compatible and harmonious with existing development and uses in the general neighborhood.
  - b. Safety and compatibility of the design of buildings, parking areas, landscaping, luminaries and other site features, which includes functional aspect of the site development such as automobile and pedestrian circulation, have been considered.
  - c. The project is consistent with the General Plan's Land Use and Housing Element goals and objectives for additional ownership housing and to improve the balance between rental and ownership housing opportunities within the City.
  - d. The planning application is for a project-specific case and is not to be construed to be setting a precedent for future development.
  
- C. The proposed project complies with Costa Mesa Municipal Code Section 13-29 (g)(1) because special circumstances applicable to the property exist to justify approval of the variance from private open space requirements. Specifically, one of the balconies will exceed the 100 square feet of area that would result in the provision of the minimum dimension required, and the project has an approximately 600 square-foot open space area at the rear of the lot for the common use of residents. The deviation granted does not constitute a grant of a special privilege inconsistent with the limitation upon other properties in the vicinity and zone in which the property is situated. Granting of the deviation will not allow a use, density, or intensity which is not in accordance with the general plan designation for the property.
  
- D. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City environmental procedures, and has been found to be exempt from CEQA under Section 15301 for Existing Facilities.

- E. The project is exempt from Chapter XII, Article 3, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

**EXHIBIT "B"****CONDITIONS OF APPROVAL**

- Plng. 1. The following improvements shall be made:
- a. Complete all exterior and interior improvements recommended/proposed in the letter provided by Stern Architects dated February 19, 2007. All requirements are to be completed under the direction of the Planning staff.
  - b. Treat termite infestations as recommended by a termite control company.
2. The address of the property and individual units (A through D) shall be blueprinted on the site plan and on all floor plans in the working drawings as part of the plan check submittal package.
3. Prior to issuance of building permits, applicant shall contact the US Postal Service with regard to location and design of mail delivery facilities. Such facilities shall be shown on the site plan, landscape plan, and/or floor plan.
4. Street addresses shall be displayed on the complex identification sign or, if there is no complex identification sign, on the wall in a manner visible to the public street. Street address numerals shall be a minimum 6" in height with not less than ½" stroke and shall contrast sharply with the background. Identification of individual units shall be provided adjacent to the unit entrances. Letters or numerals shall be 4" in height with not less than ¼" stroke and shall contrast sharply with the background.
5. Applicant shall contact the Building Safety Division, prior to the release of utilities for any units, to provide proof that the Uniform Building Code requirements for condominiums have been satisfied, to obtain a change of occupancy permit, and to complete any additional paperwork created through this conversion.
6. The site plan shall show provisions for the placement of centralized mail delivery units, if applicable. Specific locations for such units shall be to the satisfaction of the Planning Division, Engineering Division, and the US Postal Service.
7. The conditions of approval and code requirements of Planning Application PA-07-04 shall be blueprinted on the face of the site plan as part of the plan check submittal package.
8. The applicant shall contact the Planning Division to arrange for an inspection of the site prior to the final map approval. This inspection is to confirm that the conditions of approval and code requirements have been satisfied.
9. The applicant shall show proof of compliance with all applicable conditions of approval and code requirements prior to recordation of the final map. This condition shall be completed under the direction of the Planning Division.
10. The applicant shall offer the existing tenants right of first refusal to purchase any of the units with terms more favorable than those offered

to the general public. The right shall run for a period of not less than 90 days unless the tenant gives prior written notice of his or her intention not to exercise the right. If an existing tenant confirms in writing that he/she is not interested in purchasing any of the units, the applicant shall register the tenant with an apartment/rental referral service that is mutually acceptable to the applicant and tenant, and if a registration fee is required, the applicant shall pay said fee. The applicant shall provide the Planning Division staff a copy of the written offer and the tenant's written response prior to map recordation. The applicant shall also provide written evidence that all tenants not accepting the purchase offer are registered with an apartment/rental referral service and the registration fee has been paid, if applicable.

11. The CC&Rs shall disclose that the available parking on-site is 4 spaces short of the current condominium parking standards because of its legal nonconforming status.
12. The CC&R's shall require that garage spaces be used for parking purposes only. Any changes made to this provision require prior review and approval by the City of Costa Mesa.
13. In conjunction with project plan check review and approval, submit two (2) sets of detailed landscaped and irrigation plans which comply with Municipal Code requirements regarding landscaping materials and irrigation including percentage of turf allowed, number of trees and shrubs, etc., and provision of benderboard or other separation between turf and shrub areas.
14. The exterior of all building elevations shall be completely repainted (unless recently painted within 1 or 2 years of application submittal). A minimum two colors shall be used- three colors recommended.
15. Install energy efficient exterior doors and windows on all building elevations.
16. Provide exterior storage area for every unit under the direction of the Planning staff.
17. Underground overhead power line connections, if feasible.
18. Install rain gutters on all appropriate building elevations.
19. Replace any broken sidewalks, driveways, or other hardscape improvements.
20. Repair, replace, or construct interior property walls and/or fences.
21. Screen open parking spaces pursuant to the Municipal Code, under the direction of the Planning staff.
22. Screen utility meters, pedestals, etc. from the public right-of-way under the direction of the Planning Division.
23. Replace all appliances, water heater, and light fixtures with Energy Star (or better) rated appliances/fixtures, including a programmable heating system, unless the applicant demonstrates that the existing appliances, etc. are energy efficient.
24. Provide a washer/dryer hook-up in either the interior of every unit where feasible.
25. Provide appropriate interior separation of any common attic space areas and upgrade attic insulation to the maximum extent feasible.

- Bldg. 26. The following Building Division corrections shall be made to all units:
- a. Provide GFCI Protected receptacles at all required areas.
  - b. Provide duct at laundry room through wall penetrations.
  - c. Verify seismic anchoring for water heater.
  - d. Install smoke detectors at all required areas.
  - e. Verify window at bottom landing is tempered.



# **CITY OF COSTA MESA**

P.O. BOX 1200 • 77 FAIR DRIVE • CALIFORNIA 92628-1200

---

DEVELOPMENT SERVICES DEPARTMENT

**FOR ATTACHMENTS NOT INCLUDED IN THIS REPORT,  
PLEASE CONTACT THE PLANNING DIV. AT (714)754-5245.**